SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Denise Ducheny

Senator Wesley Chesbro
Senator Dave Cox

March 6, 2006

10:00 AM

Room 4203
(John L. Burton Hearing Room)

(Diane Van Maren)

Item	Department
4440	**Department of Mental Health—*Selected Issues as Noted***

- **Community Mental Health issues**
- **State Hospital issues**

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. *Please* see the Senate File for dates and times of subsequent hearings.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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Department of Mental Health

A. OVERALL BACKGROUND

Purpose and Description of Department. The Department of Mental Health (DMH) administers state and federal statutes pertaining to mental health treatment programs. The department directly administers the operation of five State Hospitals—Atascadero, Coalinga, Metropolitan, Napa and Patton, and acute psychiatric programs at the California Medical Facility in Vacaville and the Salinas Valley State Prison.

The department provides hospital services to civilly committed patients under contract with County Mental Health Plans (County MHPs) while judicially committed patients are treated solely using state funds.

Purpose and Description of County Mental Health Plans: Though the department oversees policy for the delivery of mental health services, counties (i.e., County Mental Health Plans) have the primary funding and programmatic responsibility for the majority of local mental health programs as prescribed by State-Local Realignment statutes enacted in 1991 and 1992.

Specifically counties are responsible for: (1) all mental health treatment services provided to low-income, uninsured individuals with severe mental illness, within the resources made available, **(2)** the Medi-Cal Mental Health Managed Care Program, **(3)** the Early Periodic Screening Diagnosis and Testing (EPSDT) Program for children and adolescents, **(4)** mental health treatment services for individuals enrolled in other programs, including special education, CalWORKs, and Healthy Families, and **(5)** programs associated with the Mental Health Services Act (Proposition 63).

Overall Governor's Budget. The budget proposes expenditures of $3.4 billion ($1.6 billion General Fund) for mental health services, **an increase of $316.4 million General Fund and 475.8 positions from the revised current-year budget.**

This General Fund increase is the net result of significant adjustments in the State Hospital budget, the transfer of General Fund support from the Department of Health Services to the Department of Mental Health for the Early and Periodic Screening, Diagnosis and Treatment Program, and the removal of funds used to support AB 3632 special education students who need mental health services.

In addition to the above expenditures, the DMH is also proposing capital outlay expenditures of $42.6 million ($41.6 million Public Building Construction Fund and $947,000 General Fund).

Further, it is estimated that almost $1.2 billion will be available in the Mental Health Subaccount (County Realignment Funds) which does not directly flow through the state budget. Counties use these revenues to provide necessary mental health care services to Medi-Cal recipients, as well as indigent individuals. The total amount reflects an increase of $23.6 million (County Realignment Funds), or about two percent over the anticipated current-year level.

Table: Total Proposed Funding for Department of Mental Health

Summary of Expenditures (Dollars in Thousands)	**2005-06**	**2006-07**	$ Change	% Change
Program Source				
Community Services Program	$2,576,579	$2,450,152	-$126,427	-4.9
Long Term Care Services	$920,084	$993,799	$73,715	8.0
State Mandated Local Programs	$120,000	$0	-$120,000	-100.0
Total, Program Source	**$3,616,663**	**$3,443,951**	**$172,712**	**-4.8**
Funding Source				
General Fund	$1,272,519	$1,588,959	$316,440	25.0
General Fund, Proposition 98	$13,400	$13,400	0	0
Mental Health Services Fund (Proposition 63)	$665,663	$663,913	-$1,750	-0.2
Federal Funds	$63,141	$63,199	$58	-0.09
Reimbursements	$1,600,694	$1,112,776	-$487,918	-30.5
Traumatic Brain Injury Fund	$1,150	$1,207	$57	5.0
CA State Lottery Fund	$96	$96	0	0
Licensing & Certification Fund	--	$401	$401	100
Total Department	**$3,616,663**	**$3,443,951**	**-$172,712**	**-4.8**

B. ISSUES FOR VOTE ONLY *(Items 1 Through 3—through to page 6)*

1. Healthy Families Program Adjustments—Supplemental Mental Health Services

Issue: The Governor's budget proposes **an increase of $1.733 million** (federal funds received as reimbursement) **to reflect technical adjustments to the supplemental mental health services provided by County Mental Health Plans under the Healthy Families Program (HFP).**

Of the amount requested, $1.575 million (federal funds received as reimbursements) is for caseload adjustments and $158,000 is for county administration costs. These adjustments are based on past claims paid through the program.

The proposed budget adjustment would provide a total of $26.1 million ($339,000 General Fund, $9.1 million County Realignment Funds, and $16.6 million federal funds) for supplemental mental health services under the HFP.

Background—What is the HFP & How are Supplemental Mental Health Services Provided:

The Healthy Families Program provides health insurance coverage, dental and vision services to children between the ages of birth to 19 years with family incomes at or below 250 percent of poverty (with income deductions) who are not eligible for no-cost Medi-Cal.

The enabling Healthy Families Program statute linked the insurance plan benefits with a supplemental program to refer children who have been diagnosed as being seriously emotionally disturbed (SED). **The supplemental services provided to Healthy Families children who are SED can be billed by County Mental Health Plans to the state for a federal Title XXI match. Counties pay the non-federal share from their County Realignment funds (Mental Health Subaccount) to the extent resources are available.** With respect to legal immigrant children, the state provides 65 percent General Fund financing and the counties provide a 35 percent match.

Under this arrangement, the Healthy Families Program health plans are required to sign Memoranda of Understanding (MOU) with each applicable county. These MOUs outline the procedures for referral. **It should be noted that the health plans are compelled, as part of the required Healthy Families benefit package and capitation rate, to provide certain specified mental health treatment benefits prior to referral to the counties.**

Subcommittee Staff Comments and Recommendation (Adopt): The proposed increase reflects technical adjustments. The adjustment is consistent with the forecast methodology used in past years. No issues have been raised on this proposal. **It is therefore recommended to approve as budgeted.**

2. Transfer Funding for Certain Mental Health Services for Juvenile Justice Wards

Issue: The budget proposes **to permanently transfer $3.6 million (General Fund) from the California Department of Corrections and Rehabilitation (CDCR) to the DMH for mental health services provided to juvenile justice wards receiving treatment at Metropolitan State Hospital.** Presently, the CDCR reimburses the DMH for these services. **As such, there is no net General Fund affect on the budget from this action.**

This transfer of funds is a technical adjustment only and would be consistent with the decision made last year to transfer General Fund responsibilities from the CDCR to the DMH for the care and mental health treatment of CDC inmates residing in DMH operated facilities. By transferring these General Fund dollars to the State Hospital appropriation, the administrative activities related to the billing and collection of funding from the CDCR will be eliminated.

Background—20-Bed Unit: There is a 20-bed inpatient mental health treatment unit located within the Southern Youth Correctional Reception Center and Clinic (administered by the CDC). This unit is operated under the acute psychiatric license of Metropolitan State Hospital. Services to the wards are provided by the DMH through an interagency agreement with the CDCR.

For the current year, the DMH receives a total of $4.9 million for services provided to the wards. This includes $1.3 million for State Hospital beds provided throughout the system and $3.6 million for the 20-bed program as noted above.

Subcommittee Staff Comments and Recommendation (Adopt): The proposed increase reflects a technical adjustment and is consistent with the objective to have the DMH appropriate General Fund support associated with CDCR wards and inmates who are receiving mental health treatment through the DMH-operated system. No issues have been raised on this proposal. **It is therefore recommended to approve as budgeted.**

3. San Mateo Pharmacy and Laboratory Services Adjustments

Issue: The Governor's budget proposes two adjustments to this project. **First, it reflects a transfer of $6.5 million (General Fund) from the DHS to the DMH.** This is being done to more accurately reflect the appropriation and expenditure of the funds which are for mental health services. No net funding increase is attributable to this transfer.

Second, a *net* increase of $633,000 ($348,000 General Fund and $285,000 in Reimbursements from the DHS) is requested to adjust the funding levels provided for pharmacy expenditures in the San Mateo Project.

This net adjustment reflects a reduction of $702,000 (total funds) attributed to implementation of the Medicare Part D Drug Program, and other pharmacy-related increases based on the forecasting model used by the DMH for this purpose. In addition, an adjustment was made as the result of accrual to cash carryover calculations from the Medi-Cal Program.

It should be noted that technical May Revision adjustments are anticipated based on updated data.

Additional Background—What is the San Mateo Project? The San Mateo County Mental Health Department has been operating as the mental health plan under a federal Waiver agreement and state statute since 1995. **San Mateo is the only county that has responsibility for the management of some financial risk and the management of pharmacy and related laboratory services, in addition to being responsible for psychiatric inpatient hospital services and outpatient specialty mental health services.**

This project is intended to test managed care concepts which may be used as the state progresses towards the complete consolidation of specialty mental health services and eventually, a capitated or other full-risk model. As the San Mateo Project has matured and evolved, additional components have been added and adjusted.

Subcommittee Staff Comments and Recommendation (Adopt): The increase of $633,000 ($348,000 General Fund and $285,000 in Reimbursements from the DHS) is requested to reflect a forecasting methodology developed by the DMH for pharmacy expenditures specific to this project. Specifically, the forecasting methodology is based on a study conducted in 2003. The requested increase reflects a 7.56 percent increase in pharmacy expenditures.

The General Fund transfer of $6.5 million from the DHS to the DMH is also consistent with realigning appropriations within departments based on program functions.

The budget adjustments reflect the existing agreement between the state and San Mateo. No issues have been raised on this proposal. **It is therefore recommended to approve as budgeted pending receipt of the Governor's May Revision.**

C. DISCUSSION ITEMS--Community-Based Mental Health Services

1. Mental Health Managed Care Adjustments

Issues: The budget reflects **two adjustments** to the Mental Health Managed Care Program **for a total *net reduction* of $3.1 million (General Fund) in 2006-07, along with corresponding adjustments in Reimbursements.**

***First,* a *net* increase of $4.3 million (General Fund) is requested to reflect adjustments for the local assistance.** This net increase reflects the following key adjustments:

- Increase of $4.4 million (General Fund) to reflect an increase in caseload (both inpatient and outpatient);
- Decrease of $67,000 (General Fund) to eliminate one-time funding provided last year for changes in the appeals and state fair hearing processes; and
- Does not provide for an adjustment for the medical consumer-price index for counties.

The Governor's budget does not reflect a medical consumer-price index adjustment which was supposed to be part of the annual formula agreed to by the counties and the state. **No medical consumer-price index adjustment has been provided since the Budget Act of 2000. For 2006-07, the cost of the medical consumer-price index would be $9.4 million (General Fund), if provided.**

***Second*, a reduction of $7.5 million (General Fund) is proposed within DMH state support to eliminate *one-time only* funding provided in the current year to comply with federal regulations related to providing informing materials to all Medi-Cal enrollees and all current clients enrolled in Mental Health Managed Care.**

Background—Overview of Mental Health Managed Care: Under Medi-Cal Mental Health Managed Care psychiatric inpatient hospital services and outpatient specialty mental health services, such as clinic outpatient providers, psychiatrists, psychologists and some nursing services, are the responsibility of a single entity, the Mental Health Plan (MHP) in each county.

Full consolidation was completed in June 1998. This consolidation required a Medicaid Waiver ("freedom of choice") and as such, the approval of the federal government. Medi-Cal recipients *must* obtain their mental health services through the County MHP.

The Waiver promotes plan improvement in three significant areas—access, quality and cost-effectiveness/neutrality. The DMH is responsible for monitoring and oversight activities of the County MHPs to ensure quality of care and to comply with federal and state requirements.

Background—How Mental Health Managed Care is Funded: Under this model, County MHPs generally are at risk for the state matching funds for services provided to Medi-Cal recipients and claim federal matching funds on a cost or negotiated rate basis. **County MHPs access County Realignment Funds (Mental Health Subaccount) for this purpose.**

An annual state General Fund allocation is also provided to the County MHP's. The state General Fund allocation is usually updated each fiscal year to reflect adjustments as contained

in Chapter 633, Statutes of 1994 (AB 757, Polanco). These adjustments have typically included, changes in the number of eligibles served, factors pertaining to changes to the consumer price index (CPI) for medical services, and other relevant cost items.

The state's allocation is contingent upon appropriation through the annual Budget Act.

Based on the most recent estimate of expenditure data for Mental Health Managed Care, County MHPs provided a 46 percent match while the state provided a 54 percent match. (Adding these two funding sources together equates to 100 percent of the state's match in order to draw down the federal Medicaid funds.)

Constituent Concerns with Not Funding Medical Consumer-Price Index. The Subcommittee is in receipt of a letter from the CA Mental Health Directors Association (CMHDA) and the CA State Association of Counties (CSAC) who are seeking funding for the medical consumer-price index. They contend that without such increases, the ability of counties to provide services to their target population of seriously mentally ill indigent individuals will continue to erode, with more County Realignment revenues going to provide the match for Medi-Cal services.

Specifically, they note that the medical consumer-price index has not been funded by the state since the Budget Act of 2000. Since this time, medical inflation increases have occurred and the cost of prescription drugs continue to grow. Counties also absorbed a five-percent ($11 million) reduction in the program through the Budget Act of 200, and have absorbed some costs of complying with new federal Medicaid managed care regulations with no additional funds. **In short, they contend that the ability of counties to meet their legal mandates in the Medi-Cal Program is directly tied to the adequacy of County Realignment Funds.**

Further, CMHDA and CSAC note that although the Mental Health Services Act (i.e., Proposition 63) provided new revenues for mental health services, revenues from this act cannot be used to supplant existing programs.

Subcommittee Staff Comment and Recommendation: It is recommended to adopt the Governor's proposed budget at this time, pending receipt of the May Revision.

The proposal reflects the standard calculations, except for the medical CPI adjustment. An increase of $9.4 million (General Fund) would be needed to fund the medical CPI adjustment for 2006-07.

Questions:

1. DMH, Please provide a brief summary of the budget proposal.

2. DMH, Why wasn't the medical CPI adjustment funded and are you concerned about any repercussions that may occur from this action?

2. Early, Periodic Screening, Diagnosis & Treatment—*Baseline & Audit Concerns*

Issues: The budget proposes to **(1)** make several technical adjustments to account for caseload and utilization needs, **(2)** transfer General Fund support from the DHS to the DMH to more appropriately align resources with programs, and **(3)** capture significant savings from extrapolating audit data and applying this data across program treatment services within selected audited agencies (legal entities). The net effect of these adjustments is an increase of $38.8 million ($18.9 million General Fund) for total program expenditures of $714.4 million ($352.3 million General Fund, $77.3 million County Realignment Funds and $362.1 million federal funds) for 2006-07.

Specifically, the key adjustments are as follows:

- *Utilization Adjustments*. The budget increases by $38.8 million ($18.9 million General Fund) due to more participants and service utilization. These adjustments are consistent with prior fiscal methodologies.
- *Technical Transfer of Funds.* The budget transfers the General Fund portion of the base program from the Department of Health Services to the DMH. This action aligns expenditures within one department and is consistent with past approaches to improve budget accountabilities.
- *Audit Assumptions.* The budget assumes a $19.1 million ($8.3 million General Fund) offset through audit disallowances and audit recoupments from county and community mental health providers. **It should be noted that of this $19.1 million offset, $4.8 million ($2.2 million General Fund) is assumed to be offset due to the actual EPSDT revised audits (i.e., recoupments), and $14.3 million ($6.1 million General Fund) is offset due to use of the "Disallowed Claims System" (i.e., claims are withdrawn from billing by providers through the County Mental Health Plan).**

The Governor's proposed technical adjustments to the budget are consistent with past practices in providing mental health treatment services under the EPSDT Program, with the *exception* of the audit disallowances and audit recoupments. These audit adjustments have raised significant concerns with community mental health providers and some County Mental Health Plans.

Constituency Concerns with Use of Extrapolation of Audit Data. As part of a series of cost containment actions over several years, effective January 2005, the DMH hired a consultant to commence chart audits of EPSDT services using a revised audit methodology.

Though EPSDT audits have been conducted previously, these newer audits use an *"extrapolation" method* which is then applied across those services provided by the audited "legal entity". It is the application of this "extrapolation" method that has raised the most concerns of many constituency groups.

Under the DMH extrapolation method, the audit contractor selects a statistically valid sample of case files from a particular provider to review. ***Any* audit disallowances resulting from this sample of this one provider are then extrapolated to *all* of the said agency's (i.e., legal entity) other mental health treatment clinics/service providers. As such, a small number of cases are then applied to the *entire* agency (all of the providers affiliated with the agency). Therefore, a few hundred dollars of audit disallowances from one provider can then become thousands of dollars of disallowances to the agency (legal entity) under this extrapolation method.**

According to the DMH, with the use of extrapolation for each $100 in claims that are disallowed, DMH has recouped $5,000 (on average). Therefore a legal entity could estimate its total dollars to be recouped by multiplying the dollar amount of the claims disallowed by 50. Further, if the DMH did *not* do extrapolation, only about 2 percent would be recouped. It should be noted that there are 40 pending audit appeals currently being tracked by the DMH since inception of this revised audit method.

A core concern of the extrapolation method is its validity. An agency (legal entity) can have different facilities which provide different services and serve different populations. As such, auditing one facility and extrapolating to others can give misleading results. Further, extrapolation is done by service function (such as therapy service, medication management, case management) but there is not a statistically valid sample for each service function at the level of the legal entity. For example, 50 charts are audited from one provider and the results could represent less than 1 percent of the claims for a particular service (i.e., for the agency/legal entity as a whole).

Through a series of meetings and letters, many organizations, including the CA Council of Community Mental Health Agencies, California Alliance of Child and Family Services, and County Mental Health Directors Association, have expressed their concerns to the DMH about the extrapolation method of auditing.

Numerous issues have been raised regarding the use of the extrapolation method, as discussed above, as well as several other issues including the following:

- Lack of clarity regarding the reimbursement method for **interpreter services**. Several providers have experienced audit disallowances for providing this service which is critical for meeting an individual's needs to receive culturally competent services for mental health treatment. The DMH has not been clear as to how these services should be reimbursed.
- **Lack of guidance** from the state to the counties and to the providers regarding the use of certain reimbursement codes under the program, particularly case management services.
- Use of the **"Disallowance Claims System" needs to be revamped.** Under this system a provider can request a County Mental Health Plan to remove a request for reimbursement (claim for services) from the billing system prior to any formal audit disallowance. Since the request for billing has been removed, the claim is not reviewed as part of the audit process.
- Concern that these revised audits are causing an administrative burden while not addressing any issues related to concerns of inadequate service capacity as raised through litigation in prior years (See Additional Background Section, below).

Additional Background Information on How the EPSDT Program Operates. Most children receive Medi-Cal services through the EPSDT Program. Specifically, EPSDT is a federally mandated program that requires states to provide Medicaid (Medi-Cal) recipients under age 21 any health or mental health service that is medically necessary to correct or ameliorate a defect, physical or mental illness, or a condition identified by an assessment, including services not otherwise included in a state's Medicaid (Medi-Cal) Plan. Examples of services include family therapy, crisis intervention, medication monitoring, and behavioral management modeling.

Though the DHS is the "single state agency" responsible for the Medi-Cal Program, mental health services including those provided under the EPSDT, have been delegated to be the responsibility of the Department of Mental Health (DMH). Further, counties are responsible

In 1990, a national study found that California ranked 50th among the states in identifying and treating severely mentally ill children. **Subsequently due to litigation (T.L. v Belshe' 1994), the DHS was required to expand certain EPSDT services, including outpatient mental health services.** The 1994 court's conclusion was reiterated again in 2000 with respect to additional services (i.e., Therapeutic Behavioral Services—TBS) being mandated.

County Mental Health Plans must use a portion of their County Realignment Funds to support the EPSDT Program. Specifically, a "baseline" amount was established as part of an interagency agreement in 1995, and an additional 10 percent requirement was placed on the counties through an administrative action in 2002. **As such counties must provide about $77.3 million in County Realignment Funds to support the EPSDT Program in 2006-07.**

Subcommittee Staff Comments: Audits of all public programs are necessary and appropriate in order to mitigate fraud and abuse, and to ensure that consumers are receiving appropriate and high quality services. However, considerable concerns have been raised as to the validity and fairness of these audits. Further it is unclear at this time as to what programmatic improvements are to be achieved through the use of extrapolation, other than fiscal reductions.

It is recommended to have the DMH engage in further discussions with constituency groups regarding their concerns and to report back to the Subcommittee in early April to see if any modifications to the process would be warranted.

Questions. The Subcommittee has requested the DMH to respond to the following questions:

1. DMH, Please **briefly describe how the revised audit methodology works**, including the extrapolation process and the "Disallowance Claims System".

2. DMH, Have the revised audits revealed any significant levels of fraud or providing extensive services to children who did not have medically necessary needs?

3. DMH, What quality improvements to the EPSDT Program are being contemplated due to the result of these audits?

4. DMH, Are any changes to this new audit process being contemplated? If so, when may resolution on issues be achieved?

5. DMH, Please clarify how interpreter services are to be reimbursed.

3. Mental Health Services Act—-Update on Implementation Activities *(Informational)*

Issue. The **Subcommittee has requested for the DMH to provide an update regarding the implementation of the Mental Health Services Act (Act).** The DMH has recently provided the Legislature with a report on implementation activities as required (received February 2006).

Most of the Act's funding will be provided to County Mental Health programs to fund programs consistent with their approved local plans. The Act provides for a *continuous appropriation* of the funds to a special fund designated for this purpose.

The Mental Health Services Oversight and Accountability Commission (OAC) is established to implement the Act and has the role of reviewing and approving certain county expenditures authorized by the measure. The OAC has been meeting regularly to discuss issues and an Executive Director to the Commission was recently hired.

Status Update. The **report prepared by the DMH contains the following key information:**

- During 2004-05, the DMH expended $16.9 million (special funds) in the development and planning phases to implement the provisions of the Act. This included $4.3 million (special funds) for the initial statewide stakeholder process, training, short-term strategies, development of performance outcomes and related startup efforts.
- $12.6 million (special funds) was distributed to counties for their community program planning.
- It is anticipated that $375 million (special funds) in 2005-06 and about $1.2 billion (special funds) in 2006-07 will be allocated to continue a phased implementation of the Acts components. This information is highlighted in the table below.

Table: DMH Estimate of Mental Health Services Act *Expenditures* as of January 2006

Components of the Act	Actual Expenditures **2004-05**	Estimated Expenditures **2005-06**	Projected Expenditures **2006-07**
Mental Health	$4,319,000	$16,813,000	$8,413,000
Health Services		52,000	$493,000
Social Services		$515,000	$508,000
Education		$633,000	$396,000
Rehabilitation		$195,000	$195,000
Alcohol & Drug		$247,000	$250,000
Managed Risk Medical Ins			$151,000
State Controller			$43,000
Total State Support (rounded)	**$4,319,000**	**$18,455,000**	**$10,500,000**
Local Assistance			
Education & Training			$252,000,000
Capital Facilities & Technology			$252,000,000
Local Planning	$12,624,000		
Prevention & Early Intervention			$275,000,000
Community Services & Support		$356,870,000	$398,000,000
Total Local Assistance	**$12,624,000**	**$356,870,000**	**$1,177,000,000**
Grand Total	**$16,943,000**	**$375,325,000**	**$1,187,500,000**

Additional Background—Summary of Key Aspects of Mental Health Services Act (Proposition 63, 2004). The Mental Health Services Act addresses a broad spectrum of prevention, early intervention and service needs and the necessary infrastructure, technology and training elements that will effectively support the local mental health system.

The Act imposes a 1 percent income tax on personal income in excess of $1 million. The Act is projected to generate about $254 million in 2004-05, $683 million in 2005-06 and $690 million in 2006-07 and increasing amounts thereafter.

The six components and the required funding percentage specified in the Act for 2004-05 through 2007-08 are shown in the table below.

Table: Percent Funding by Component as required by Act

Six Component of MHSA Act	2004-05	2005-06	2006-07	2007-08
Local Planning	5%	5%	5%	5%
Community Services & Supports	0	55%	55%	55%
Education & Training	45%	10%	10%	10%
Capital Facilities & Technology	45%	10%	10%	10%
State Implementation/Admin	5%	5%	5%	5%
Prevention	0	20%	20%	20%
TOTALS	100 %		100 %	100 %

- Local Planning (County plans): Each county must engage in a local process involving clients, families, caregivers, and partner agencies to identify community issues related to mental illness and resulting from lack of community services and supports. **Each county is to submit for state review and approval a three-year plan for the delivery of mental health services within their jurisdiction.** Counties are also required to provide annual updates and expenditure plans for the provision of mental health services.
- Community Services and Supports. These are the programs, services, and strategies that are being identified by each county through its stakeholder process to serve unserved and underserved populations, with an emphasis on eliminating racial disparity.
- Education & Training. This component will be used for workforce development programs to remedy the shortage of qualified individuals to provide services to address severe mental illness.
- Capital Facilities and Technology. This component is intended to support implementation of the Community Services and Supports programs at the local level. Funds can be used for capital outlay and to improve or replace existing information technology systems and related infrastructure needs.
- Prevention & Early Intervention. These funds are to be used to support the design of programs to prevent mental illness from becoming severe and disabling.

Questions. The Subcommittee has requested the DMH to respond to the following questions.

1. DMH, Please provide a brief summary of the status of the County Plans, and key related components regarding implementation of the Mental Health Services Act.

2. DMH, What will be the key expenditures for 2006-07 (charts and description)?

4. Mental Health Services Act—Augmentation for State Support

Issue: The DMH is seeking an increase of $434,000 (Mental Health Services Act Fund) to fund two new state positions and consultant expenses related to implementation of the Mental Health Services Act (Proposition 63, 2004). Specifically, these resources are proposed to be used as follows:

- *CA Mental Health Planning Council.* Provides funds to support a Staff Mental Health Specialist position for the CA Mental Health Planning Council to address ongoing workload activities required by the Act, and for additional operating costs associated with these activities.

- *Department of Mental Health.* Provides funds to support a Staff Programmer Analyst position within the DMH to assist with the development of a statewide information technology infrastructure that interfaces with county information technology systems to comply the performance requirements of the Act.

- *Various Contracts.* Provides funds for the **Mental Health Services Oversight Commission** to use for various contracts as follows:

    - $100,000 for research projects;
    - $5,000 for conference and training services for public meetings;
    - $6,000 for public address assistance; and
    - $20,000 for legal counsel assistance.

Subcommittee Staff Recommendation. No issues have been raised by this proposal. The requested staff has been justified based on the workload needs of implementing the Mental Health Services Act. **It is recommended to adopt the budget proposal.**

Questions.

1. DMH, Please briefly describe the budget request.

5. Need to Receive Report from the DMH on Mental Health Parity

Issue and Background. Through the Budget Act of 2004, the Legislature requested the DMH, in collaboration with the Department of Managed Health Care, and the Department of Insurance to conduct an analysis of mental health parity in California. Among other things, this analysis was to include suggested approaches over the short-term and long-term to effectuate a more comprehensive mental health system in California, both public and private. **This analysis was due to the Legislature by March 1, 2005. It is one-year late.**

Though receipt of the report has been requested numerous times, including through this Subcommittee last year, it still has not been provided. The only response that has been forthcoming is that it is under review.

Questions. The Subcommittee has requested the DMH to respond to the following question.

1. **DMH**, When will the **requested report which is one-year over due be provided**?

D. DISCUSSION ITEMS—State Hospitals

Overall Background and Funding Sources. The department directly administers the operation of five State Hospitals—Atascadero, Metropolitan, Napa, Patton, and Coalinga. In addition, the DMH administers acute psychiatric programs at the California Medical Facility in Vacaville, and the Salinas Valley State Prison.

Patients admitted to the State Hospitals are generally either (1) civilly committed, or (2) judicially committed. As structured through the State-Local Realignment statutes of 1991/92, County Mental Health Plans (County MHPs) contract with the state to purchase beds. County MHPs reimburse the state for these beds using County Realignment Funds (Mental Health Subaccount).

Judicially committed patients are treated solely using state General Fund support. The majority of the General Fund support for these judicially committed patients is appropriated through the Department of Mental Health (DMH). However, a small amount of reimbursement is also provided to the DMH by the CA Department of Corrections and Rehabilitation to support certain specified patient populations.

Penal Code-related patients include individuals who are classified as: (1) not guilty by reason of insanity (NGI), **(2)** incompetent to stand trial (IST), **(3)** mentally disordered offenders (MDO), **(4)** sexually violent predators (SVP), and **(5)** other miscellaneous categories as noted.

Of the total patient population, ***over 90 percent*** **of the beds are designated for penal code-related patients and less than 10 percent are to be purchased by the counties**, primarily Los Angeles County.

Overall Budget for the State Hospital System. Total expenditures of **$958.4 million ($876.4 million General Fund) and 9,714 positions are proposed to operate the five State Hospitals that serve a total population of 5,830 patients.**

Table: DMH Summary of Population by Hospital ***(DMH Estimate for Budget Purposes)***

Hospital Summary	Budget Act of 2005 (6/30/2006)	*Revised* 2005-06 (6/30/2006)	Proposed Patient Growth for 2006-07	Proposed 2006-07 Population (6/30/07)
Atascadero	1,402	1,297	125	1,422
Coalinga	747	723	65	788
Metropolitan	745	688	17	705
Napa	1,120	1,120	75	1,195
Patton	1.369	1,369	-43	1,326
Vacaville	294	294	0	294
Salinas	64	100	0	100
TOTALS	**5,741**	**5,591 (150 less in the CY compared to Budget Act)**	**239 (Proposed Net increase over CY)**	**5,830 (Proposed BY)**

1. Caseload at the State Hospitals is Over Estimated According to LAO

Issues. The Legislative Analyst's Office (LAO) **has identified several areas for General Fund reduction related to the level of patient caseload at the State Hospitals. The proposed reductions are as follows and include both the current-year and budget-year:**

- *Reduce Funds Due to Less Caseload.* Reduce by $10 million (General Fund) for the current-year, and $20 million (General Fund) for the budget year, to account for an over estimate of caseload in the State Hospitals as budgeted by the DMH;
- *Reduce for Unavailable Beds at Coalinga.* Reduce by $8.5 million (General Fund) in the current-year because Coalinga State Hospital will not achieve its current-year patient caseload due to staff shortages, as discussed further below. The proposed reduction reflects a reduction of 50 penal code-related patients in the current-year.

Using actual caseload data from January, the LAO believes that overall caseload for the current year will be about 190 patients less than estimated by the DMH. In addition, about 50 beds purchased by the CA Department of Corrections and Rehabilitation (CDCR) at Coalinga will not be used due to staffing shortages. Similarly, the spending plan then overestimates the funding needed for the budget year.

Reasons Why Caseload is Presently Less at the State Hospitals. There are several reasons why caseload is presently less than estimated at the State Hospitals. These are as follows:

- *Coalinga State Hospital Activation Slower Than Anticipated.* This new facility was activated as of September 2005 as planned; however the actual patient population has not reached its anticipated level due to concerns with hiring staff, primarily clinical staff. **As of January 2006, about 58 percent of the staff positions were vacant and the actual caseload was only 140 patients or about 300 patients less than anticipated in the Budget Act of 2005.**

- *Clinical Staff Short Falls Partially Due to "Plata" Ruling.* The DMH contends its difficulties in hiring and retaining staff stem in part from the recent federal "Plata" court case involving problems with the provision of health care at the state prisons. Through the federal ruling, the CA Department of Corrections and Rehabilitation (CDCR) was required to increase the salaries paid to certain personnel classes of physicians, nurses and other clinical staff. As such, the DMH states that hiring and retention of their clinical staff, particularly at Coalinga State Hospital, became problematic because their compensation was not competitive with nearby prisons.

  In response to this concern, the Joint Legislative Budget Committee recently approved the Administration's current-year request to fund recruitment and retention ("R & R's") pay for certain physician and nursing classifications at the State Hospitals. **Therefore, the DMH anticipates that this action will facilitate hiring which will enable more patients to then be placed at Coalinga.**

- *Declining Number of Civilly Committed Patients.* County Mental Health Plans purchase beds from the State Hospital system for patients with severe mental illness when appropriate services cannot be obtained in a community-setting. Over the last several years, the number of beds purchased by counties (known as Lanterman-Petris-Short beds or LPS-beds) has continued to decline.

  One subset of this population is a unit at Metropolitan State Hospital that provides mental health services for adolescents who are severely emotionally disturbed. This patient population has been declining for several years from about 110 patients to only about 28 patients currently (22 patients from Los Angeles). As a result, the DMH has held up a bidding process for an estimated $8.8 million (Bond Funds) project to construct an on-site school building at Metropolitan for these patients. In addition, the DMH is assessing whether the existing population is sufficient to justify the continuation of this unit.

Subcommittee Staff Recommendation. It is **recommended to adopt the LAO recommendations** to:

> **(1)** Reduce by $10 million (General Fund) in the current-year and $20 million (General Fund) in the budget year due to an over estimate of caseload; and
>
> **(2)** Reduce by $8.5 million (General Fund) in the current year to reflect the reduced patient population residing at Coalinga State Hospital.

It should be noted that this recommendation will likely need to be adjusted at the May Revision when updated projections are obtained.

In addition, it is recommended to adopt the following Budget Bill Language in order for the Legislature to keep informed regarding the DMH's intentions of operating a special adolescent unit at Metropolitan State Hospital, and whether an on-site school is still warranted.

> Item 4440-011-0001
> Provision x.
>
> "The department shall provide the policy and fiscal committees of the Legislature with an update by no later than January 10, 2007, or sooner if applicable, on the status of the operation of the adolescent unit at Metropolitan State Hospital, including whether construction of the on-site school is warranted."

Questions. The Subcommittee has requested the LAO and DMH to respond to the following questions:

1. LAO, Please present your fiscal recommendations to reduce the budget due to caseload.

2. DMH, Do you concur with the LAO recommendations regarding caseload?

3. DMH, Please provide a brief update on the staffing issues at Coalinga and the overall future ability to increase patient caseload at the facility.

4. DMH, Please provide a status update on your review of the viability of continuing the adolescent unit at Metropolitan State Hospital.

2. Administration's Request for Statutory Change for Patton State Hospital

Issue. The DMH is requesting a **statutory change** to Section 4107 (c) of Welfare and Institutions Code **in order to continue to operate above state licensing capacity at Patton State Hospital (Patton) for an additional *four years*.**

Presently, existing statute allows the DMH to operate above capacity only until September 2006 (i.e., one year after activation of Coalinga State Hospital). The requested statutory change would extend the date from September 2006 to September 2009. The DMH contends that if this extension is not done, fewer "secure" beds will be available at Patton and a system-wide problem regarding access to secure beds for Penal-Code patients would arise.

Patton presently has a state licensed capacity of 1, 336 patient beds. Existing statute provides for the DMH to operate at a capacity of *up to* 1,670 patient beds, or 334 patient beds more than the state license capacity.

The DMH states that for the past year, Patton has been operating at a fairly constant level of 1,525 patients, or about 189 patient beds above licensed capacity. In order to operate at this higher capacity, the DMH had to have their plan for Patton reviewed by the Department of Health Services' Licensing and Certification Division (DHS). In addition, monthly status reports must be provided to the DHS to continue to receive their approval of the plan.

Background—Why the Need to Extend the "Over Bedding" Timeframe at Patton. For the past several years, in order for the DMH to manage the increased growth of Penal-Code related patient commitments, the DMH has been operating at above state licensing capacity at Atascadero and Patton State Hospitals.

Through trailer bill language enacted for the Budget Act of 2001, a limit to the level of over bedding at Patton was instituted (i.e., up to 1, 670 patients until one-year following activation of Coalinga State Hospital). **This language was intended to provide appropriate time to staff Coalinga so patients could be transferred there from other State Hospitals. However the activation of Coalinga was slowed and now, though activated as of September 2006, Coalinga is currently experiencing difficulties in the recruitment and retention of clinical staff.**

The DMH contends that an extension of the over bedding timeline is needed or significant problems will arise, including the following:

- Since Patton presently is operating at 189 beds over capacity (total of 1,525 patients), these Penal-Code related patients would need to be transferred to other State Hospitals.
- The current waiting list of over 300 court-ordered patients system-wide would grow by about 189 patients.
- Few numbers of secured beds equates to the DMH accepting fewer referrals from the CA Department of Corrections and Rehabilitation (CDCR), which may violate requirements of the Coleman Settlement (requires mental health treatment for prisoners) and related court orders.

Subcommittee Staff Recommendation. **It is recommended to modify the Administration's proposed statutory change to more accurately reflect the requested extension of the date (i.e., to 2009) and to reflect a revised patient cap. The DMH has agreed with this suggested modification.**

As such, the recommended revised trailer bill language (Section 4107 (c) of Welfare and Institutions Code read as follows (overlay to existing law):

> "Notwithstanding any other provision of law, the State Department of Mental Health shall house no more than 1, 336 patients at Patton State Hospital. However, until September 2009, ~~one year after the activation of the Coalinga Secure Treatment Facility~~ up to ~~1,670~~ 1,530 patients may be housed at Patton State Hospital.

Questions. The Subcommittee has requested the LAO and DMH to respond to the following questions:

1. DMH, Please briefly describe the trailer bill language request and its implications. Do you concur with the proposed modifications to the language?

2. DMH, How is the DMH continuing to coordinate with the DHS on these issues?

3. Augmentation for Implementation of State Hospital Changes per CRIPA

Issue. The budget seeks **a total increase of $43.5 million** ($37.8 million General Fund, and $5.7 million in County Realignment Funds) **to proceed with numerous, significant changes within the State Hospital system to comply with requirements as directed by the U.S. Department of Justice and the Civil Rights of Institutionalized Persons Act (CRIPA)**

This request consists of (1) $43.3 million ($37.6 million General Fund and $5.7 million in County Realignment Funds) to hire 453 new staff for the State Hospitals, and **(2)** $180,000 (General Fund) to hire 2 new staff for DMH Headquarters.

The DMH contends that if the state fails to address CRIPA deficiencies, the State Hospitals could be placed into federal receivership by the federal courts (as has been done with the CDCR's health care program). Further, the DMH agrees that a general upgrading and modernization of its approach to treating institutional populations is overdue.

The $43.3 million ($37.6 million General Fund) to be expended at the State Hospitals would be used as follows:

- **$39.7 million (total funds) is dedicated to support 453 positions.** This request assumes that all staff are **hired as of July 1, 2006**, the beginning of the new fiscal year. With respect to the types of positions, the following general categories apply:

Table—Summary of DMH Positions (453 total) for State Hospitals

Professional & Nursing Classes	Level-of-Care & Support Classes
Senior Psychiatrist 46.7 positions	Clinical Dietitian 5.5 positions
Senior Psychologist 176.4	Special Investigator 8.6
Psychiatric Social Worker 16.3	Health Records Technician 21.5
Rehabilitation Therapist 30.4	Office Technician 48
Registered Nurse 48.3	
Psychiatric Technician 51	

- **$1.8 million (General Fund--*one-time only*) for special repairs** at the State Hospitals because the U.S. DOJ has cited certain environmental conditions that are potential safety hazards at the facilities. Examples include replacing fire doors, repairing leaking roofs and windows, upgrading temperature control systems in patient areas, and resurfacing broken asphalt and sidewalks.

- **$1.8 million is for contracts with expert consultants** who are knowledgeable regarding CRIPA and mental health treatment services. About $1 million of this amount is for monitors who will be under the direct supervision of the U.S. DOJ.

The $180,000 (total funds) for Headquarters support would be used to fund two positions—a Psychologist and an Associate Mental Health Specialist. The DMH would use these positions to (1) analyze a significant amount of data regarding compliance with CRIPA, (2) disseminate corrective action plans when needed, (3) utilize performance improvement mechanisms to assess and address compliance goals, and (4) prepare various reports for the U.S. DOJ, the Administration and the Legislature.

Background—Deficiencies at State Hospitals and Need for Signed Agreement. In July 2002, the U.S. DOJ completed an on-site review of conditions at Metropolitan State Hospital. Recommendations for improvements at Metropolitan in the areas of patient assessment, treatment, and medication were then provided to the DMH.

Since this time, the U.S. DOJ has identified similar conditions at Napa, Patton, and Atascadero. The DMH states that a proposed Remediation Plan to resolve CRIPA at all four State Hospitals (Coalinga was not involved), as well as a consent decree between California and the U.S. DOJ, are both presently pending approval by the Administration and U.S. DOJ.

The DMH has *not* shared this pending Settlement Agreement (i.e., Remediation Plan and consent decree) with the Legislature.

According to the DMH, these documents provide a timeline for State Hospitals to address the CRIPA deficiencies and include agreements related to treatment planning, patient assessments, patient discharge planning, patient discipline, and documentation requirements. It also apparently addresses issues regarding quality improvement, incident management and safety hazards in the facilities.

A key component to successfully addressing the CRIPA deficiencies is implementation of the "Recovery Model" at the State Hospitals. Under this model, the hospital's role is to assist individuals in reaching their goals through individualized mental health treatment, and self determination. This model includes such elements as the following:

- Treatment is delivered to meet individual's needs for recovery in a variety of settings including the living units, psychosocial rehabilitation malls and the broader hospital community.
- There are a broad array of interventions available to all individuals rather than a limited array.
- A number of new tracking and monitoring systems must be put in place to continually assess all major clinical and administrative functions in the hospitals.
- Incentive programs—called "By Choice" will be used to motivate individuals to make positive changes in their lives.

Legislative Analyst's Office Recommendation. The **LAO raises three key issues. First**, they believe it is unlikely that the DMH can hire all 453 new staff positions by July 1, 2006, as proposed in the budget. Typically, it can take several months to hire staff, particularly certain clinical positions, such as Psychiatrist's, Psychologists and Registered Nurses.

Second, based on State Controller's data, about 24 percent or 2,030 positions within the State Hospital system were vacant as of January 2006. Therefore, full year funding of the proposed 453 new staff would only lead to over budgeting.

Third, the LAO notes that resources should not be provided by the Legislature until the Remediation Plan and consent decree have been finalized and provided to the Legislature.

Subcommittee Staff Recommendation. Based on the LAO analysis and discussions with the DMH, the following actions are recommended:

- Direct the DMH to provide the Subcommittee with **a revised funding proposal** which would phase-in the requested new staff. This should be provided *prior* to the May Revision;
- Adopt uncodified trailer bill language (Hand Out) to require the DMH to report to the Legislature regarding implementation of changes at the State Hospitals and compliance with CRIPA; and
- Require the DMH to provide the Remediation Plan and consent decree as soon as possible.

Questions. The Subcommittee has requested the DMH and LAO to respond to the following questions:

1. DMH, Please provide a brief overview of the significant concerns identified by the U.S. DOJ related to CRIPA.

2. DMH, Please provide a brief summary as to how the budget proposal will address these needs.

3. DMH, When may the Remediation Plan and consent decree be agreed to by the Administration and the federal U.S. DOJ? When may the Legislature receive this information?

4. LAO, Please discuss your concerns with the DMH budget proposal.

4. Expansion of Level IV Licensed Beds at Salinas Valley Psychiatric Program

Issue: The CA Department of Corrections and Rehabilitation (CDCR) contracts with the DMH to provide Intermediate Care inpatient mental health services for inmate-patients (i.e., Level IV beds) requiring that level of treatment. **The budget proposes an increase of $7 million (General Fund) to provide for 36 more beds (from the existing 64 to a total of 100 beds) within the Salinas Valley Psychiatric Program. This increase will fund about 69 positions, primarily clinical classifications.**

This proposed expansion is consistent with the plan submitted by the CDCR to the Coleman federal court as required. **The Joint Legislative Budget Committee (JLBC) approved a current-year deficiency request for this activation in November 2005. The phase-in of staffing for the current-year was to commence in December 2005, with activation of the additional 36 beds to occur as of May 2006.**

The DMH states they have the management and operational infrastructure in place to support this expansion.

Background—Need to Expand Services to Address Coleman Federal Court Concerns. The CDCR completed an "Unidentified Needs Assessment" in response to a federal court order (i.e., Coleman lawsuit). This assessment states that 287 additional Intermediate Care beds are presently needed to treat Level IV inmate-patients currently housed within CDCR. As such, further expansion of these Level IV beds is needed quickly.

The budget request will allow for the activation of an additional 36 beds at Salinas to bring the total number of beds at Salinas to 100. The DMH is under contract with the CDCR to provide clinical mental health services at Salinas and at Vacaville.

Subcommittee Staff Recommendation. It is recommended to approve the proposal as budgeted. The state needs to proceed in order to begin to meet the requirements of the Coleman lawsuit. In addition, the JLBC approved a current-year deficiency in November 2005 regarding implementation of this expansion.

Questions.

1. DMH, Please provide a brief status update regarding the May 2006 activation of the 36-bed expansion.

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